



DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

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48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive Order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of limited public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the Federal Register.

This agenda updates the report published on January 20, 2012, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2013. In addition to this agenda, DoD components also publish rulemaking notices

pertaining to their specific statutory administration requirements as required.

Starting with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

- (1) rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and
- (2) any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or email: patricia.toppings@whs.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Morgan Park, telephone 571-372-0489, or write to Executive Services

Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or email: morgan.park@whs.mil.

For general information on Office of the Secretary agenda items, which are procurement-related, contact Mr. Manuel Quinones, telephone 571-372-6088 or write to Defense Acquisition Regulations Directorate, 4800 Mark Center Drive, Suite 15D07-2, Alexandria, VA 22350, or email: manuel.quinones@osd.mil.

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703-428-6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDR-C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, VA 22315-3860, or e-mail: brenda.s.bowen.civ@mail.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703-693-3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or email: chip.smith@hqda.army.mil.

For general information on Department of the Navy regulations, contact LCDR Catherine Chiapetta, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or email: catherine.chiapetta@navy.mil.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-695-6608/6605, or write to Department of the Air Force, SAF/A6PP, 1800 Air Force Pentagon, Washington, DC 20330-1800, or email: bao-anh.trinh@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related

regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army and Navy. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform,

DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: October 17, 2012

NAME: Michael L. Rhodes,
Director, Administration and Management.

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
252	Safeguarding Unclassified DoD Information (DFARS Case 2011-D039)	0750-AG47

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
253	Government Support Contractor Access to Technical Data (DFARS Case 2009-D031)	0750-AG95
254	Proposal Adequacy Checklist (DFARS Case 2011-D042)	0750-AH47

255	Ownership of Offeror (DFARS Case 2011-D044)	0750-AH58
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Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
256	Reporting of Government-Furnished Property (DFARS Case 2012-D001)	0750-AG83

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
257	TRICARE; Reimbursement of Sole Community Hospitals (Reg Plan Seq No. 27)	0720-AB41

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Department of Defense (DOD)	Proposed Rule Stage
Defense Acquisition Regulations Council (DARC)	

252. SAFEGUARDING UNCLASSIFIED DOD INFORMATION (DFARS CASE 2011-D039)

Legal Authority: 41 USC 1303

Abstract: This rule proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add a DFARS subpart and associated contract clauses to address requirements for the safeguarding of unclassified information within contractor information systems. This rule addresses the safeguarding requirements specified in Executive Order 13556, Controlled Unclassified Information. The

purpose of this proposed DFARS rule is to implement adequate security measures to safeguard unclassified DoD information within contractor information systems from unauthorized access and disclosure, and to prescribe reporting to DoD certain events that affect DoD information existing in or traveling through contractor unclassified information systems. DoD published an Advance Notice of proposed Rulemaking (ANPRM) and notice of public meeting in the Federal Register at 75 FR 9563 on March 3, 2010, to provide the public an opportunity for input into the initial rulemaking process. The ANPRM addressed basic and enhanced safeguarding procedures for the protection of DoD information. DoD estimates that the rule will apply to approximately 76 percent of the small businesses that will be required to provide protection of DoD information at an enhanced level. DoD invited comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/10	75 FR 9563
ANPRM Comment Period End	05/03/10	
NPRM	06/29/11	76 FR 38089
NPRM Comment Period End	08/29/11	
NPRM Comment Period Extended	12/16/11	76 FR 55297
NPRM Comment Period Extended	10/28/11	76 FR 66889
NPRM Comment Period End	12/16/11	
NPRM	03/00/13	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0750–AG47

Department of Defense (DOD)	Final Rule Stage
Defense Acquisition Regulations Council (DARC)	

253. GOVERNMENT SUPPORT CONTRACTOR ACCESS TO TECHNICAL DATA (DFARS CASE 2009–D031)

Legal Authority: PL 111–84; 41 USC 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 821 of the National Defense Authorization Act for Fiscal Year 2010. Section 821 authorizes certain types of Government support contractors to have access to proprietary technical data belonging to prime contractors and other third parties, provided that the owner of the technical data may require the support contractor to sign a non-disclosure agreement. These nondisclosure agreements, having certain restrictions and legal or equitable remedies, protect the owner of the technical data against disclosure of confidential information. Additionally, this rule implements a third statutory exception to the prohibition on release of privately developed data outside the Government. This new statutory exception allows a “covered Government support contractor” access to, and use of, any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of the program or effort to which such technical data relates.

The rule also provides a definition of “covered Government support contractor” as contractor under a contract, whose primary purpose is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of a program or effort. A “covered Government support contractor” must meet certain criteria identified in the rule and

provide certain assurances to the Government to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor, to include signing a non-disclosure agreement.

The rule affects small businesses that are Government support contractors that need access to proprietary technical data belonging to prime contractors and other third parties. The impact of this rule on small business is not expected to be significant because the non-disclosure agreement is not likely to have a significant cost or administrative impact.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/11	76 FR 11363
Interim Final Rule Effective Date	03/02/11	
Interim Final Rule Comment Period End	05/02/11	
Final Action	03/00/13	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0750–AG95

254. PROPOSAL ADEQUACY CHECKLIST (DFARS CASE 2011–D042)

Legal Authority: 41 USC 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a checklist for DoD contractors to complete under solicitations that require submission of certified cost or

pricing data and the Contracting Officer chooses to use the associated provision. This rule supports one of DoD's Better Buying Power initiatives. The purpose of the Proposal Adequacy Checklist and associated solicitation provision is to ensure offerors submit thorough, accurate, and complete proposals. This rule is not expected to have a significant economic impact on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/02/11	76 FR 75512
NPRM Comment Period End	01/21/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0750–AH47

255. OWNERSHIP OF OFFEROR (DFARS CASE 2011–D044)

Legal Authority: 41 USC 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a solicitation provision to require offerors to identify their highest-level owner, immediate owner, and entity with controlling interest in the offeror. The Commercial And Government Entity (CAGE) code and legal name of that business provide the ability to identify owners of offerors. DoD does not anticipate this rule will have a significant impact on small business.

Timetable:

Action	Date	FR Cite
NPRM	07/24/12	77 FR 43474

NPRM Comment Period End	09/24/12	
Final Action	02/00/13	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0750–AH58

Department of Defense (DOD)	Completed Actions
Defense Acquisition Regulations Council (DARC)	

256. REPORTING OF GOVERNMENT–FURNISHED PROPERTY (DFARS CASE 2012–D001)

Legal Authority: 41 USC 1303

Abstract: DoD amended the Defense Federal Acquisition Regulation Supplement (DFARS) to revise and standardize reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified. The objective of the rule is to improve the accountability and control of DoD assets. The revisions modify and standardize contractor Government property reporting requirements. This rule alters the requirements of the current clause, which requires Defense contractors to report (primarily) Government-furnished equipment items valued at \$5,000 or more, to a new requirement to report all serially managed Government-furnished property regardless of unit acquisition cost. The clause at 252.211-7007, is being renamed as “Reporting of Government-Furnished Property,” and is being revised to expand definitions, and provide guidance on reporting of GFP. This clause applies to commercial contracts that have GFP and reporting applicability, and is added to the list of solicitation provisions and contract clauses applicable to the acquisition of commercial items at DFARS 212.301. Additionally, the clause at 252.251-7000 is being revised to require electronic receipts of property obtained from

Government supply sources. DoD estimates that approximately one-fourth of all contractors in possession of Government-furnished property are small business. All DoD contractors in possession of Government property will be equally affected by the revision in reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/22/10	75 FR 80426
NPRM Comment Period Extended	02/18/11	76 FR 9527
Public Meeting	03/18/11	76 FR 11190
NPRM Comment Period End	04/08/11	
Second NPRM	10/19/11	76 FR 64885
Second NPRM Comment Period End	12/19/11	
Final Action	08/29/12	77 FR 52254
Final Action Effective	08/29/12	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0750–AG83

Department of Defense (DOD)	Final Rule Stage
Office of Assistant Secretary for Health Affairs (DODOASHA)	

257. TRICARE; REIMBURSEMENT OF SOLE COMMUNITY HOSPITALS

Regulatory Plan: This entry is Seq. No. 27 in part II of this issue of the **Federal Register**.

RIN: 0720–AB41

[FR Doc. Filed 11–29–12; :00 am]

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